

STATE OF NORTH DAKOTA
BEFORE THE COMMISSIONER OF INSURANCE

In the Matter of)	CEASE AND DESIST ORDER
)	AND NOTICE OF
David A. Skjerven,)	OPPORTUNITY FOR HEARING
NPN 227425,)	
)	CASE NO. AG-06-191
Respondent.)	

TO: David A. Skjerven, 818 Main Avenue, Suite 5, Fargo, ND 58103

Commissioner of Insurance Jim Poolman (hereinafter "Commissioner") has determined as follows:

1. N.D. Cent. Code § 26.1-01-03.1 authorizes the Commissioner to issue an Order to cease and desist when it appears that any person or business entity is or has engaged in an act or practice which violates or may lead to a violation of the North Dakota Century Code.

2. N.D. Cent. Code Chapter 26.1-26 regulates the licensing of insurance producers.

3. David A. Skjerven, NPN 227425 (hereinafter "Respondent"), is presently and has been at all times pertinent to this action a licensed North Dakota insurance agent.

4. N.D. Cent. Code § 26.1-26-42 states, in part:

The commissioner may suspend, revoke, place on probation, or refuse to continue or refuse to issue any license issued under this chapter if, after notice to the

licensee and hearing, the commissioner finds as to the licensee any of the following conditions:

...

6. In the conduct of affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or has shown oneself to be incompetent, untrustworthy, or financially irresponsible.

...

10. An improper withholding of, misappropriating of, or converting to one's own use any moneys belonging to policyholders, insurers, beneficiaries, or others received in the course of one's insurance business.

5. N.D. Admin. Code § 45-02-02-14.1 states:

45-02-02-14.1. Client loans to licensed producers and consultants prohibited - Exceptions. A licensed insurance producer or consultant may not solicit or accept a loan from an individual with whom the insurance producer or consultant came into contact in the course of the person's insurance business, or sold an insurance policy to, within the past ten years. This does not prohibit a licensed insurance producer or consultant from accepting loans from financial institutions; immediate family members, which shall mean only a spouse, parents, siblings, and children; or other loans upon the prior written approval of the insurance commissioner.

6. The Commissioner of Insurance for the State of North Dakota has come into information which alleges that Respondent has knowingly and intentionally engaged in the conduct of deceit and fraud against residents of the State of North Dakota in his actions of accepting money and converting to his own use moneys belonging to several insurance clients.

7. In January 1999, Respondent accepted approximately \$19,388.00 from Rose Leingang. In April 2004, Respondent accepted approximately \$42,144.56 from

Ms. Leingang. Copies of Respondent's statements sent to Ms. Leingang showing the status of her accounts as of December 31, 2005 and 2004, are attached as Exhibit 1. Respondent applied the money received from Ms. Leingang to his own personal use as a loan. Respondent had sold insurance to Ms. Leingang within the 10 years prior to January 1999 and April 2004. Ms. Leingang has demanded the return of her money, but Respondent has refused to return the money. Respondent's conduct of soliciting and accepting a loan from an individual with whom the Respondent had come into contact in the course of his insurance business constitutes a violation of N.D. Admin. Code § 45-02-02-14.1 and N.D. Cent. Code § 26.1-26-42(6) and (10).

8. In July 2002, Respondent accepted approximately \$20,200.00 from Diane Meidinger. A copy of the investigative report of the North Dakota Securities Department dated December 16, 2004, is attached as Exhibit 2. Respondent applied the money received from Ms. Meidinger to his own personal use as a loan. Respondent had sold insurance to Ms. Meidinger within the 10 years prior to July 2002. Respondent's conduct of soliciting and accepting a loan from an individual with whom the Respondent had come into contact in the course of his insurance business constitutes a violation of N.D. Admin. Code § 45-02-02-14.1 and N.D. Cent. Code § 26.1-26-42(6) and (10).

9. On several occasions from June 2000 through July 2005, Respondent accepted money from Randy Butts and his wife, Barbara Butts. Respondent applied the money received from Randy and Barbara Butts to his own personal use as a loan. As of July 1, 2006, the value of the Mr. Butts loan account with the Respondent, with interest, was approximately \$1.17 million. As of July 1, 2006, the value of the Barbara Butts loan account with the Respondent, with interest, was \$28,534. A copy of promissory notes dated June 23, 2000, for \$100,000; June 21, 2002, for \$138,977; July

10, 2004, for \$324,300; and July 6, 2004 for \$229,171; and Respondent's statement for the Butts account as of July 1, 2006, are attached as Exhibit 3. Respondent had sold insurance to Randy Butts and Barbara Butts within the 10 years prior to June 2000. Randy and Barbara Butts have demanded the return of their money but Respondent has failed and refused to return the money. Respondent's conduct of soliciting and accepting a loan from an individual with whom the Respondent had come into contact in the course of his insurance business constitutes a violation of N.D. Admin. Code § 45-02-02-14.1 and N.D. Cent. Code § 26.1-26-42(6) and (10).

10. In May 2003, Respondent accepted \$100,000 and in June 2003, Respondent accepted \$93,500 from Dell Arneson. A copy of the promissory notes dated May 30, 2003, and June 12, 2003, issued by Respondent to Dell Arneson are attached as Exhibit 4. Respondent applied the money received from Mr. Arneson to his own personal use as a loan. Respondent had sold insurance to Mr. Arneson within the 10 years prior to June 2003. Mr. Arneson demanded the return of his money, but Respondent has refused to return the money. Respondent's conduct of soliciting and accepting a loan from an individual with whom the Respondent had come into contact in the course of his insurance business constitutes a violation of N.D. Admin. Code § 45-02-02-14.1 and N.D. Cent. Code § 26.1-26-42(6) and (10).

11. In October 2004, in a telephone conversation with Laurie A. Wolf, Director of Licensing and Investigations, Respondent stated that he had not borrowed money from any clients since the Viland loan in 1986. Respondent's statement to Ms. Wolf was false and misleading and is in violation of N.D. Cent. Code § 26.1-26-42(6).

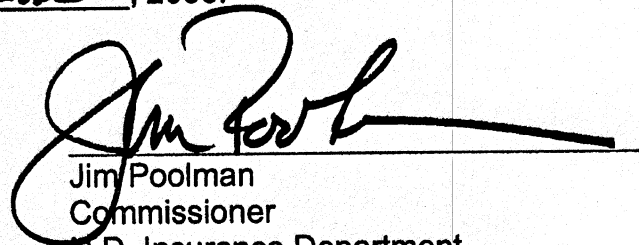
12. Respondent's conduct constitutes violations of N.D. Admin. Code § 45-02-02-14.1 and N.D. Cent. Code § 26.1-26-42(6) and (10).

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to N.D. Cent. Code § 26.1-01-03.1 that Respondent, whether acting in the State of North Dakota as an insurer, a risk retention group, a purchasing group, an insurance producer, or otherwise engaging in the business of insurance, either directly or indirectly through named and unnamed persons, entities, agents, or otherwise, shall immediately **CEASE AND DESIST** from soliciting, transacting, or otherwise engaging in the business of insurance with residents of the State of North Dakota.

IT IS FURTHER ORDERED pursuant to N.D. Cent. Code § 26.1-01-03.1 that Respondent may make a written request for a hearing on this matter within 30 days of the date of this Order.

If the Respondent fails to request a hearing in writing within 30 days after being served with a copy of this Cease and Desist Order, the Commissioner shall make the Cease and Desist Order permanent, as the facts require.

DATED this 18th day of September, 2006.

A handwritten signature in black ink, appearing to read "Jim Poolman", is written over a horizontal line.

Jim Poolman
Commissioner
N.D. Insurance Department
600 East Boulevard Avenue
Bismarck, ND 58505
(701) 328-2440



David A. Skjerven & Associates

818 Main Ave., Suite 5, Fargo, ND 58103

March 1, 2006

Investment Account Status Period from 01/07/1999 to 12/31/2005

Name: Rose K. Leingang

Date of Participation: 01/17/1999

Social Security Number 502-30-0501

Employment Status: Retired

Owners:

Laverne R. Eckley [REDACTED] 20%
Kenneth J. Leingang [REDACTED] 20%
Judith A. Becker [REDACTED] 20%
Sandra M. Leingang [REDACTED] 20%
Cynthia K. Davenport [REDACTED] 20%

Opening Balance	Contributions	Earnings	Withdrawals	Ending Balance
(01/07/1999)	(01/07/1999)	(01/07/1999)	(01/07/1999)	(01/07/1999)
\$19,388.00	\$0	\$0	\$0	\$19,388.00
(01/07/1999)	(01/07/1999)	(01/07/2000)	(01/07/2000)	(01/07/2000)
\$19,388.00	\$0	\$1648.00	\$0	\$21,036.00
(01/07/2000)	(01/07/2000)	(01/07/2001)	(01/07/2001)	(01/07/2001)
\$21,036.00	\$0	\$1788.00	\$0	\$22,824.00
(01/07/2001)	(01/07/2001)	(01/07/2002)	(01/07/2002)	(01/07/2002)
\$22,824.00	\$0	\$1940.00	\$0	\$24,764.00
(01/07/2002)	(01/07/2002)	(01/07/2003)	(01/07/2003)	(01/07/2003)
\$24,764.00	\$0	\$2105.00	\$0	\$26,869.00
(01/07/2003)	(01/07/2003)	(01/07/2004)	(01/07/2004)	(01/07/2004)
\$26,869.00	\$0	\$2284.00	\$0	\$29,153.00
(01/07/2004)	(01/07/2004)	(08/07/2004)	(08/07/2004)	(08/07/2004)
\$29,153.00	\$0	\$1445.00	\$0	\$30,598.00
(08/07/2004)	(08/07/2004)	(12/31/2004)	(12/31/2004)	(12/31/2004)
\$30,598.00	\$0	\$1275.00	\$0	\$31,873.00
(12/31/2004)	(12/31/2004)	(12/31/2005)	(12/31/2005)	(12/31/2005)
\$31,873.00	\$0	\$2709.00	\$0	\$34,582.00

David A. Skjerven
President

David A. Skjerven & Associates

818 Main Ave., Suite 5, Fargo, ND 58103

February 10, 2005

Investment Account Status #L101SF Period from 04/05/2004 to 12/31/2004

Name: Rose K. Leingang

Date of Participation: 4/05/2004

Social Security Number: [REDACTED]

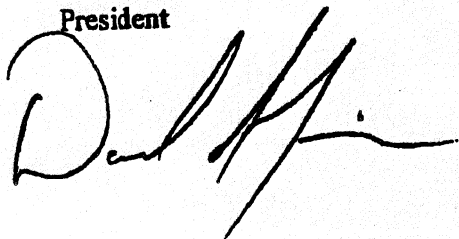
Employment Status: Retired

Owners:

Laverne R. Eckley	[REDACTED] 20%
Kenneth J. Leingang	[REDACTED] 20%
Judith A. Becker	[REDACTED] 20%
Sandra M. Leingang	[REDACTED] 20%
Cynthia K. Davenport	[REDACTED] 20%

Beginning Balance (04/05/2004)	Contributions (04/05/2004)	Earnings (04/05/2004)	Withdrawals (04/05/2004)	Balance (04/05/2004)
\$42,144.56	\$0	\$0	\$0	\$42,144.56
(04/05/2004)	(04/20/2004)	(04/20/2004)	(04/20/2004)	(04/20/2004)
\$42,144.56	\$13,815.25	\$140.48	\$0	\$56,100.29
(04/20/2004)	(08/15/2004)	(08/15/2004)	(08/15/2004)	(08/15/2004)
\$56,100.29	\$0	\$1683.00	\$0	\$57,783.29
(08/15/2004)	(12/31/2004)	(12/31/2004)	(12/31/2004)	(12/31/2004)
\$57,783.29	\$0	\$2,169.00	\$0	\$59,952.29

David A. Skjerven
President



COPY

InterSecurities-David Skjerven TM #04-339
Diane Meidinger – complainant

SYNOPSIS OF THE COMPLAINT

In May and July of 2002, ND resident Diane Meidinger gave David Skjerven, a registered representative of InterSecurities Inc. at the time, \$20,200 of IRA money to invest on her behalf. The money had been invested with Prudential. She was not told how her money was going to be invested, just that she would be getting 9.5%. She received two account statements, one dated November 7, 2002 and the other October 13, 2003. The account statements gave no indication of how the money was invested. They listed earnings for the time period represented and also Ms. Meidinger's beneficiaries.

Actions by David Skjerven leading to potential securities violations:

1. According to Skjerven, he invested Meidinger's money as a loan to a recreational vehicle park located in Arizona in which he had a business interest. This was done without the knowledge of InterSecurities and was not an investment opportunity available through any of the insurance companies with which Skjerven was licensed at the time.
2. The investment was not registered at the time nor was there an application for any exemption from registration. However, no note, contract or certificate of any kind was issued to Meidinger. The only confirmations of her investment were the two statements she received.
3. Meidinger's intent was for the money to be rolled over as an IRA custodial transfer. Skjerven did not do that. Therefore, the manner in which he invested the money was unsuitable for Meidinger.
4. Meidinger, at Skjerven's instruction, made her checks payable to Skjerven Financial Services. In all likelihood her funds were commingled with other cash assets of Skjerven Financial Services.
5. Skjerven may have borrowed Meidinger's money for his own use. No proof has been established that her money was actually loaned to the RV park in Arizona. Mr. Skjerven was asked to provide the name, address, phone number and any other contact representing to whom her money was sent. His response to the question was, "Personally invested it."
6. When an exam was conducted at Skjerven's place of business by this office, no record was found of this transaction, except a copy of pages 2 – 4 of a Prudential surrender form signed by Meidinger on dated 6/24/2002. The contract number on the form matches the contract number on the form 1099R Meidinger received in 2003 as a result of the funds being paid to her directly.
7. By his own admission, Skjerven did not discuss, explain or disclose any details to Meidinger as to how her money was to be used. He exercised his own discretion in how it was invested.

12/16/2004



THE FACE OF THIS DOCUMENT CONTAINS A COLORED BACKGROUND. THE BACK CONTAINS AN ARTIFICIAL WATERMARK

PROMISSORY NOTE

No. #6 \$ 100,000⁰⁰ (City) FARGO ND (State) 6-23 2000

The undersigned DAVID A. SKJERVEN & ASSOC. INC.

jointly and severally promise to pay to the order of BANDY BUTTS & HIS HEIRS

One Hundred Thousand & 00/100 Dollars

at such address as may from time to time be designated. With interest thereon at the rate of 9 3/4%

percent per annum until fully paid. Interest is payable AT MATURITY. Upon default, the maker agrees to pay all reasonable collection costs and attorneys fees for making such collection. All parties to this note waive demand, notice of non-payment protest. This note shall be fully due and payable on 6-23 2003

ATKINS David A. Skjerven (Seal)
Associates
818 Main Ave. #5 (Seal)
Fargo ND 58103

©E-Z Legal Forms Form

\$ 138,977⁰⁰ FARGO N. DAK., 6-21 2002

1 yr. AFTER DATE, FOR VALUE RECEIVED, I OR WE PROMISE TO PAY TO THE ORDER OF BANDY & BARB BUTTS

PAYABLE AT FARGO ND

One Hundred Thirty Eight Thousand Nine Hundred & 77/100 DOLLARS

WITH INTEREST THEREON FROM DATE UNTIL FULLY PAID, AT THE RATE OF 10 PER CENT PER ANNUM, PAYABLE ANNUALLY.

THE SEVERAL MAKERS, SIGNERS, GUARANTORS AND ENDORSERS HEREOF HEREBY WAIVE PRESENTMENT, DEMAND, NOTICE OF DISHONOR AND PROTEST, AND CONSENT THAT THE TIME OF PAYMENT MAY BE EXTENDED OR THIS NOTE RENEWED WITHOUT AFFECTING THEIR LIABILITY

SECURED BY David A. Skjerven

ADDRESS 818 Main Ave

ADDRESS FARGO ND 58103

\$ 138,977⁰⁰

DUE 6-21-03

NO. 9

RENEWAL OF

NO. _____

DATED _____

EXTENDED

TO _____

TO _____

TO _____

RENEWED BY

NO _____

PERCE CO., FARGO 2240 N.D.

<p>\$ <u>324,300⁰⁰</u> <u>FARGO</u> N. DAK., <u>7-10</u> 20<u>04</u> <u>1 year</u> AFTER DATE, FOR VALUE RECEIVED, I OR WE PROMISE TO PAY TO THE ORDER OF <u>RANDY BUTTS & or HIS HEIRS</u> PAYABLE AT <u>FARGO ND</u> <u>Three Hundred Twenty Four Thousand Three Hundred & 00/100</u> DOLLARS WITH INTEREST THEREON FROM DATE UNTIL FULLY PAID, AT THE RATE OF <u>12 1/2</u> PER CENT PER ANNUM, PAYABLE ANNUALLY. THE SEVERAL MAKERS, SIGNERS, GUARANTORS AND ENDORSERS HEREOF HEREBY WAIVE PRESENTMENT, DEMAND, NOTICE OF DISHONOR AND PROTEST, AND CONSENT THAT THE TIME OF PAYMENT MAY BE EXTENDED OR THIS NOTE RENEWED WITHOUT AFFECTING THEIR LIABILITY THEREON. SECURED BY SKJERVEN FINANCIAL SERVICES <u>818 Main Ave., Suite 5</u> ADDRESS <u>Fargo, ND 58103</u> ADDRESS _____ </p>	<p>\$ <u>324,300⁰⁰</u> DUE <u>7-10-05</u> NO. <u>#1</u> RENEWAL OF NO. _____ DATED _____ EXTENDED TO _____ TO _____ TO _____ RENEWED BY NO. _____ </p>
---	--

THE PIERCE CO., FARGO 2240 N.D.

<p>\$ <u>229,171⁰⁰</u> <u>FARGO</u> N. DAK., <u>7-6</u> 20<u>04</u> <u>1 yr.</u> AFTER DATE, FOR VALUE RECEIVED, I OR WE PROMISE TO PAY TO THE ORDER OF <u>RANDY BUTTS & or HIS HEIRS</u> PAYABLE AT <u>FARGO ND</u> <u>Two Hundred Twenty Nine Thousand One Hundred & 00/100</u> DOLLARS WITH INTEREST THEREON FROM DATE UNTIL FULLY PAID, AT THE RATE OF <u>11 1/2</u> PER CENT PER ANNUM, PAYABLE ANNUALLY. THE SEVERAL MAKERS, SIGNERS, GUARANTORS AND ENDORSERS HEREOF HEREBY WAIVE PRESENTMENT, DEMAND, NOTICE OF DISHONOR AND PROTEST, AND CONSENT THAT THE TIME OF PAYMENT MAY BE EXTENDED OR THIS NOTE RENEWED WITHOUT AFFECTING THEIR LIABILITY THEREON. SECURED BY SKJERVEN FINANCIAL SERVICES <u>818 Main Ave., Suite 5</u> ADDRESS <u>Fargo, ND 58103</u> ADDRESS _____ </p>	<p>\$ <u>229,171⁰⁰</u> DUE <u>7-6-05</u> NO. <u>2</u> RENEWAL OF NO. _____ DATED _____ EXTENDED TO _____ TO _____ TO _____ RENEWED BY NO. _____ </p>
---	--

THE PIERCE CO., FARGO 2240 N.D.

~~10/19/06~~ 6/19/06 OK Duff 6-19-06

RANDY + BARB BUTTS July 1 2006

$$\#1 \quad 12\% \quad \$363,216^{\infty} + \$43,586^{\infty} = \$406,802^{\infty}$$

$$\#2 \quad 11\% \quad \$254,380^{\infty} + \$27,982^{\infty} = \$282,362^{\infty}$$

$$\#3 \quad 10\% \quad 3,512^{\infty} + 351^{\infty} = \$3,863^{\infty}$$

MINUS 2005 + 2006 mo. pay -3863

0 Balance

$$\text{RANDY + BARB pensions vested } 6.85\% = \$53,100^{\infty}$$

$$\text{RANDY ATKINS Brokerage } 9.75 \times \$159,230^{\infty} + \$555^{\infty} = \$1,747,755^{\infty}$$

$$\text{RANDY + BARB } 10\% \text{ A+B Mt } \$184,979^{\infty} + \$18,418^{\infty} = \$203,477^{\infty}$$

MINUS Balance 2005 + 2006 mo pay = -50,137

\$153,340^{\infty}

RANDY NORSKI LLC

$$\begin{array}{r} \$100,000^{\infty} \\ \hline \$1,170,359^{\infty} \end{array}$$

$$\text{BARB \#1 } \$25,940^{\infty} \quad 10\% + \$2,594^{\infty} = \$28,534^{\infty}$$

7 MONTHS

AFTER DATE, FOR VALUE RECEIVED, I OR WE PROMISE TO PAY TO THE ORDER OF

Dell ARNESON & or His Heirs

PAYABLE AT

FAIRCO ND

One Hundred Thousand & $\frac{2}{100}$ DOLLARS

WITH INTEREST THEREON FROM DATE UNTIL FULLY PAID, AT THE RATE OF 10 PER CENT PER ANNUM, PAYABLE ANNUALLY.

THE SEVERAL MAKERS, SIGNERS, GUARANTORS AND ENDORSERS HEREOF HEREBY WAIVE PRESENTMENT, DEMAND, NOTICE OF DISHONOR AND PROTEST, AND CONSENT THAT THE TIME OF PAYMENT MAY BE EXTENDED OR THIS NOTE RENEWED WITHOUT AFFECTING THEIR LIABILITY THEREON.

SECURED BY

DAVID A. Skerving

ADDRESS

818 Main Ave

ADDRESS

11/20 ND 58/03

THE POWER CO. 10000 22ND ST.

\$100,000⁰⁰

DUE JAN 1 2004

NO. 22

REVIEWAL OF

NO.

DATED

EXTENDED

TC

TC

TC

ADVANCED BY

NC

ENDORSEMENT:

GUARANTEE:

FOR VALUE RECEIVED, I HEREBY GUARANTEE THE PAYMENT OF THE WITHIN NOTE AT MATURITY ON ANY DATE DEMANDS, AND HEREBY AGREE AND CONSENT TO ALL THE stipulations CONTAINED THEREIN.

[illegible]

NOTIFIED

<p>\$ <u>93,500⁰⁰</u> <u>FARGO</u> N. DAK. <u>June 12</u> 20<u>03</u> <u>1 YR.</u> AFTER DATE, FOR VALUE RECEIVED, I OR WE PROMISE TO PAY TO THE ORDER OF <u>DELL ARNESON & ON HIS HEIRS</u> PAYABLE AT <u>FARGO - ND</u> <u>NINETY THREE THOUSAND FIVE HUNDRED & 00/100</u> DOLLARS WITH INTEREST THEREON FROM DATE UNTIL FULLY PAID, AT THE RATE OF <u>10</u> PER CENT PER ANNUM, PAYABLE ANNUALLY. <small>THE SEVERAL MAKERS, SIGNERS, GUARANTORS AND ENDORSERS HEREOF HEREBY WAIVE PRESENTMENT, DEMAND, NOTICE OF DISHONOR AND PROTEST, AND CONSENT THAT THE TIME OF PAYMENT MAY BE EXTENDED OR THIS NOTE RENEWED WITHOUT AFFECTING THEIR LIABILITY THEREON.</small> SECURED BY SKJERVEN FINANCIAL SERVICES <u>818 Main Ave., Suite 5</u> ADDRESS <u>Fargo, ND 58103</u> ADDRESS <u>LOT 7 LITTLE PELICAN</u> </p>	<p>\$ <u>93,500⁰⁰</u> DUE <u>6-12-04</u> NO. <u>2</u> <small>RENEWAL OF</small> NO. _____ DATED _____ <small>EXTENDED</small> TO _____ TO _____ TO _____ <small>RENEWED BY</small> NO. _____ </p>
---	---

THE PIERCE CO., FARGO 2246 N.D.